

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Hershel R. Beebe,)	Case No. 6:12-cv-_____
)	
Plaintiff,)	
)	
vs.)	NOTICE OF REMOVAL TO THE
)	UNITED STATES DISTRICT COURT
Metropolitan Life Insurance Company,)	
)	
Defendant.)	
)	
)	

Pursuant to 28 U.S.C. Sections 1331, 1441 and 1446, defendant Metropolitan Life Insurance Company (“MetLife”), hereby removes this action to the United States District Court for the District of South Carolina, Greenville Division. The basis for this removal is that this Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1331. In support of this Notice of Removal, MetLife states:

1. On October 10, 2012, plaintiff filed a complaint against MetLife in the Court of Common Pleas, Greenville County, South Carolina, Civil Action 2012-CP-23-6483 (hereinafter the “State Action”) alleging wrongful termination of his LTD benefits under the Astar USA, LLC Long Term Disability Plan and seeking payment of his LTD benefits pursuant to the plan, as well as attorney’s fees and costs.

2. On October 15, 2012, MetLife was served, by way of plaintiff’s service upon the South Carolina Department of Insurance, with a copy of the summons and complaint filed by plaintiff in the State Action. True and correct copies of the pleadings in the State Action as well as the letter from the South Carolina Department of Insurance are attached hereto as **Exhibit A**.

3. Original jurisdiction exists in this Court based on federal question. Pursuant to 28 U.S.C. Section 1331, United States District Courts have jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States.

4. In the complaint, plaintiff asserts entitlement to benefits under a group long term disability insurance policy issued to Astar USA, LLC, plaintiff's employer. The action is of a civil nature and involves the laws of the United States, specifically, the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.*, as appears from the allegations of the complaint. As such, plaintiff's claims are governed by ERISA and plaintiff's state law claims are subject to the complete preemption doctrine. *Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58 (1987) (holding that a cause of action filed in state court which is preempted by ERISA is removable as an action arising under federal law, even when the ERISA-regulated action does not appear on the face of the complaint).

5. Defendant MetLife has not served any answer or other pleading, nor made any appearance before the Court of Common Pleas in Greenville County, South Carolina, since being served with the complaint. This Notice of Removal is filed within thirty (30) days of service and/or notice of the complaint to MetLife pursuant to 28 U.S.C. Section 1446(b).

6. Defendant MetLife is entitled to remove this action pursuant to 28 U.S.C. Section 1441(a) and (b) and in accordance with 28 U.S.C. Section 1331.

7. Defendant MetLife will forward an Acknowledgement to the Clerk of the Court of Common Pleas for Greenville County, South Carolina indicating that the State Action is being removed to the United States District Court for the District of South Carolina, Greenville Division, in accordance with 28 U.S.C. Section 1446(d).

8. Defendant MetLife submits this Notice of Removal without waiving any defenses to the claims and allegations asserted by plaintiff, or conceding that plaintiff has asserted claims upon which relief may be granted.

WHEREFORE, MetLife respectfully requests that this Court accept this Notice, that this entire suit be docketed in this Court, and that this Court proceed to the final determination of this suit.

s/ Peter A. Rutledge

Peter A. Rutledge (Federal ID: 7185)

SMITH MOORE LEATHERWOOD LLP

300 East McBee Ave., Suite 500

Post Office Box 87

Greenville, South Carolina 29602

Telephone: 864-240-2410

Facsimile: 864-240-2498

peter.rutledge@smithmoorelaw.com

*Counsel for Defendant Metropolitan Life Insurance
Company*

November 14, 2012